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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/418,536	10/14/1999	DANIEL J. POWERS	10981567-1	9017

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EXAMINER

OROPEZA, FRANCES P

ART UNIT PAPER NUMBER

3762

DATE MAILED: 03/25/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/418,536

Applicant(s)

POWERS ET AL.

Examiner

Frances P. Oropeza

Art Unit

3762

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 January 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. Claims 7, 9, 15-17 and 19-28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 7, 15 and 16, "the user" lacks antecedent basis.

In claim 9, "wherein ECG" should be --wherein the ECG--.

In claim 17, "monitor patient ECG" should be --monitor the patient's ECG--.

In claim 19, lines 10-11, "retrieves incident" should be--retrieves the incident--.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. Claims 1-3, 5-11, 14 and 17-28 are rejected under 35 U.S.C. 102(e) as being anticipated by Skelton et al. (US 6292692). Skelton et al. discloses a defibrillation device operated under pass control enabling the device to be readily reconfigured for use by individuals with different levels of training (c 4, ll 21-24 and c 5, ll 26-46). The treatment device (10) includes a printer (60), a display (24) and keys (68) for menu selection and keys (70) for passcode entry and feature setting (c 10, ll 15-52). Audio recording is an option (c 7, line 66 – c 8, line 4 and (c 9, ll 54-56). The outputs of various treatment device modules can be graphically displayed (c 9, ll 64-67). Up to three waveform can be displayed (figure 4, 98 a-c, and c 12, ll 10-29). A treatment summary is created that records pace markers, time indications and key events (c 7, ll 26-35). Access to the recorded log can be restricted (c 10, l 53 – c 11, l 27).

Claim Rejections - 35 USC § 103

3. Claims 4 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Skelton et al. (US 6292692) in view of Rockwell et al. (US 6141584). As discussed in paragraph 2 of this action, Skelton et al. discloses the claimed invention except for the replay step occurring automatically without user activation and when the patient is disconnected from the device. Rockwell et al. disclose a defibrillator and communication system and teaches that an event summary can be generated automatically at handoff (column 9, lines 36-38 and column 12, lines 12-16). Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the defibrillator as taught by Skelton et al., and have the replay step occurring automatically without user activation and when the patient is disconnected from the device as taught by Rockwell et al.. One have ordinary skill in the art would have been motivated to make such a modification in defibrillator to enable the care givers to review the data periodically and at critical times, such as movement to a new machine or situation, to ensure patient care is progressing in an optimum fashion and to ensure key treatments and histories are properly noted.

4. Claims 13 and 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Skelton et al. (US 6292692) in view of Powers et al. (US 5879374). As discussed in paragraph 2 of this action, Skelton et al. discloses the claimed invention except for:

- activation of the incident review mode in response to insertion of the battery, and
- offering the replay option when the defibrillator is turned off or when the battery is inserted.

Powers et al. disclose an external defibrillator with automatic self-testing prior to use.

Powers et al. teach that it is known to use the insertion of a battery as the trigger to automatically generate a test signal. The test signal initiates a plurality of preset self-tests or activities within the defibrillator (column 2 line 57 – column 3, line 10). It is an obvious design choice that the insertion of the battery could also activate the incident review mode and/or initiate an offer to replay the recorded data. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the defibrillator as taught by Skelton et al., with the battery insertion triggers (activating the incident review mode and replaying the stored data) discussed above as taught by Powers et al.. One having ordinary skill in the art would have been motivated to make such a modification in defibrillator to gain quicker access to the incident review mode and/or the stored data.

Powers et al. teach that it is known use a gate array as a system monitor in the scenario of low power. Low power is viewed as equivalent to an impending system shutdown, hence it is an obvious design choice to have the ASIC (application specific integrated circuit) perform various tasks at the low power or shutdown point including offering to replay the stored data. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the defibrillator as taught by Skelton et al., with the offer to replay the stored data at shutdown as taught by Powers et al.. One having ordinary skill in the art would have been motivated to make such a modification in defibrillator to keep the rescue personnel advised of the events to date in the rescue operation.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fran Oropeza whose telephone number is (703) 605-4355. The examiner can normally be reached on Monday – Thursday from 6 a.m. to 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela D. Sykes can be reached on (703) 308-5181. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 306-4520 for regular communication and (703) 306-4520 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.

Frances P. Oropeza
Patent Examiner
Art Unit 3762

FP
3/17/02

[Signature]
JEFFREY H. VASTHAB
BY PRIMARY EXAMINER
3762
3/20/02

Attachment for PTO-948 (Rev. 03/01, or earlier)
6/18/01

The below text replaces the pre-printed text under the heading, "Information on How to Effect Drawing Changes," on the back of the PTO-948 (Rev. 03/01, or earlier) form.

INFORMATION ON HOW TO EFFECT DRAWING CHANGES

1. Correction of Informalities -- 37 CFR 1.85

New corrected drawings must be filed with the changes incorporated therein. Identifying indicia, if provided, should include the title of the invention, inventor's name, and application number, or docket number (if any) if an application number has not been assigned to the application. If this information is provided, it must be placed on the front of each sheet and centered within the top margin. If corrected drawings are required in a Notice of Allowability (PTOL-37), the new drawings **MUST** be filed within the **THREE MONTH** shortened statutory period set for reply in the Notice of Allowability. Extensions of time may **NOT** be obtained under the provisions of 37 CFR 1.136(a) or (b) for filing the corrected drawings after the mailing of a Notice of Allowability. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

2. Corrections other than Informalities Noted by Draftsperson on form PTO-948.

All changes to the drawings, other than informalities noted by the Draftsperson, **MUST** be made in the same manner as above except that, normally, a highlighted (preferably red ink) sketch of the changes to be incorporated into the new drawings **MUST** be approved by the examiner before the application will be allowed. No changes will be permitted to be made other than correction of informalities, unless the examiner has approved the proposed changes.

Timing of Corrections

Applicant is required to submit the drawing corrections within the time period set in the attached Office communication. See 37 CFR 1.85(a).

Failure to take corrective action within the set period will result in **ABANDONMENT** of the application.